

AMENDED IN ASSEMBLY JUNE 28, 2006

AMENDED IN ASSEMBLY JUNE 8, 2006

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE APRIL 28, 2005

AMENDED IN SENATE APRIL 20, 2005

**SENATE BILL**

**No. 187**

---

**Introduced by Senator Soto**

February 10, 2005

---

An act to amend Section 116365 of, and to add Section 116365.3 to, the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

SB 187, as amended, Soto. Drinking water: contaminants.

The California Safe Drinking Water Act requires the State Department of Health Services to adopt primary drinking water standards for contaminants in drinking water and prohibits those standards from being less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. The act requires the Office of Environmental Health Hazard Assessment to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard.

The act requires the department to consider specified criteria when it adopts a primary drinking water standard including the public health goal for the contaminant published by the Office of Environmental Health Hazard Assessment, the national primary drinking water standard, if any, adopted by the United States Environmental

Protection Agency, and the technological and economic feasibility of compliance with the proposed drinking water standard. Existing law requires the department, for purposes of determining economic feasibility, to consider the costs of compliance to public water systems, customers, and other affected parties with the proposed standard, including the cost per customer and aggregate cost of compliance, using best available technology.

This bill would require the department to consider, *to the extent information is available*, in determining economic feasibility, the likely number of deaths, illnesses, and disabilities that may result from the adoption of a primary drinking water standard that is less stringent than the public health goal, utilizing the risk characterization contained in the risk assessment prepared by the office pursuant to existing law.

This bill would also require the department to include in its calculation, *to the extent information is available*, the estimated cost of medical care, reproductive harm, lost days of work, support of dependents, and reduction in earning capacity that may result from exposure to the contaminant in question. This bill would permit the department to use published tables relied upon by the insurance industry to calculate these costs.

This bill would also require the department's analysis of technological and economic feasibility to be made available to the public along with the draft regulation for review and comment, and would require the department and Office of Environmental Health Hazard Assessment to make available to the public any documentation used to adopt primary drinking water standards or maximum contaminant levels.

This bill would ~~require~~ *authorize* the department or office to review and consider the primary drinking water standards and maximum contaminant levels imposed by other states, provided those standards and levels are not less stringent than existing state law.

This bill would further require the department, if it fails to issue a primary drinking water standard by a deadline imposed by state law, to issue monthly reports to the Legislature that explain the reasons for the delay and a summary of work activities.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 116365 of the Health and Safety Code is amended to read:

116365. (a) The department shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. Each primary drinking water standard adopted by the department shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:

(1) With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety.

(2) With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b) The department shall consider all of the following criteria when it adopts a primary drinking water standard:

(1) The public health goal for the contaminant published by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c).

(2) The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.

(3) The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the department shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology. The department shall also consider, *to the extent information is available*, as a part of the determination of economic feasibility, the likely number of deaths, illnesses, or disabilities that may result from the adoption of a primary

1 drinking water standard that is less stringent than the public  
2 health goal, utilizing the risk characterization contained in the  
3 risk analysis prepared by the Office of Environmental Health  
4 Hazard Assessment. The department shall calculate, *to the extent*  
5 *information is available*, the estimated cost for medical care;  
6 reproductive harm, which includes alterations to reproductive  
7 organs or the endocrine system and effects on pregnancy  
8 outcomes; lost days of work; support of dependants; and  
9 reduction of earning capacity that may result from exposure to  
10 the contaminant in question. The department may utilize  
11 published tables relied upon by the insurance industry to  
12 calculate these costs. The department's analysis of technological  
13 and economic feasibility shall be made available to the public  
14 along with the draft regulation for review and comment.

15 (c) (1) The Office of Environmental Health Hazard  
16 Assessment shall prepare and publish an assessment of the risks  
17 to public health posed by each contaminant for which the  
18 department proposes a primary drinking water standard. The risk  
19 assessment shall be prepared using the most current principles,  
20 practices, and methods used by public health professionals who  
21 are experienced practitioners in the fields of epidemiology, risk  
22 assessment, and toxicology. The risk assessment shall contain an  
23 estimate of the level of the contaminant in drinking water that is  
24 not anticipated to cause or contribute to adverse health effects, or  
25 that does not pose any significant risk to health. This level shall  
26 be known as the public health goal for the contaminant. The  
27 public health goal shall be based exclusively on public health  
28 considerations and shall be set in accordance with all of the  
29 following:

30 (A) If the contaminant is an acutely toxic substance, the public  
31 health goal shall be set at the level at which no known or  
32 anticipated adverse effects on health occur, with an adequate  
33 margin of safety.

34 (B) If the contaminant is a carcinogen or other substance that  
35 may cause chronic disease, the public health goal shall be set at  
36 the level that, based upon currently available data, does not pose  
37 any significant risk to health.

38 (C) To the extent information is available, the public health  
39 goal shall take into account each of the following factors:

1 (i) Synergistic effects resulting from exposure to, or  
2 interaction between, the contaminant and one or more other  
3 substances or contaminants.

4 (ii) Adverse health effects the contaminant has on members of  
5 subgroups that comprise a meaningful portion of the general  
6 population, including, but not limited to, infants, children,  
7 pregnant women, the elderly, individuals with a history of serious  
8 illness, or other subgroups that are identifiable as being at greater  
9 risk of adverse health effects than the general population when  
10 exposed to the contaminant in drinking water.

11 (iii) The relationship between exposure to the contaminant and  
12 increased body burden and the degree to which increased body  
13 burden levels alter physiological function or structure in a  
14 manner that may significantly increase the risk of illness.

15 (iv) The additive effect of exposure to the contaminant in  
16 media other than drinking water, including, but not limited to,  
17 exposures to the contaminant in food, and in ambient and indoor  
18 air, and the degree to which these exposures may contribute to  
19 the overall body burden of the contaminant.

20 (D) If the Office of Environmental Health Hazard Assessment  
21 finds that currently available scientific data are insufficient to  
22 determine the level of a contaminant at which no known or  
23 anticipated adverse effects on health will occur, with an adequate  
24 margin of safety, or the level that poses no significant risk to  
25 public health, the public health goal shall be set at a level that is  
26 protective of public health, with an adequate margin of safety.  
27 This level shall be based exclusively on health considerations and  
28 shall, to the extent scientific data are available, take into account  
29 the factors set forth in clauses (i) to (iv), inclusive, of  
30 subparagraph (C), and shall be based on the most current  
31 principles, practices, and methods used by public health  
32 professionals who are experienced practitioners in the fields of  
33 epidemiology, risk assessment, and toxicology. However, if  
34 adequate scientific evidence demonstrates that a safe dose  
35 response threshold for a contaminant exists, then the public  
36 health goal should be set at that threshold. The department may  
37 set the public health goal at zero if necessary to satisfy the  
38 requirements of this subparagraph.

39 (2) The determination of the toxicological endpoints of a  
40 contaminant and the publication of its public health goal in a risk

1 assessment prepared by the Office of Environmental Health  
2 Hazard Assessment are not subject to the requirements of  
3 Chapter 3.5 (commencing with Section 11340) of Part 1 of  
4 Division 3 of Title 2 of the Government Code. The Office of  
5 Environmental Health Hazard Assessment and the department  
6 shall not impose any mandate on a public water system that  
7 requires the public water system to comply with a public health  
8 goal. The Legislature finds and declares that the addition of this  
9 paragraph by the act amending this section during the 1999–2000  
10 Regular Session of the Legislature is declaratory of existing law.

11 (3) (A) Beginning July 1, 2001, the Office of Environmental  
12 Health Hazard Assessment shall, at the time it commences  
13 preparation of a risk assessment for a contaminant as required by  
14 this subdivision, electronically post on its Internet Web page a  
15 notice that informs interested persons that it has initiated work on  
16 the risk assessment. The notice shall also include a brief  
17 description, or a bibliography, of the technical documents or  
18 other information the office has identified to date as relevant to  
19 the preparation of the risk assessment and inform persons who  
20 wish to submit information concerning the contaminant that is  
21 the subject of the risk assessment of the name and address of the  
22 person in the office to whom the information may be sent, the  
23 date by which the information must be received in order for the  
24 office to consider it in the preparation of the risk assessment, and  
25 that all information submitted will be made available to any  
26 member of the public who requests it. Until July 1, 2001, the  
27 Office of Environmental Health Hazard Assessment shall send  
28 the notice to interested persons who request it by mail.

29 (B) Each draft risk assessment prepared by the Office of  
30 Environmental Health Hazard Assessment pursuant to this  
31 subdivision shall be made available to the public at least 45  
32 calendar days prior to the date that public comment and  
33 discussion on the risk assessment are solicited at the public  
34 workshop required by Section 57003.

35 (C) (i) At the time the Office of Environmental Health Hazard  
36 Assessment publishes the final risk assessment for a contaminant,  
37 the office shall respond in writing to significant comments, data,  
38 studies, or other written information submitted by interested  
39 persons to the office in connection with the preparation of the  
40 risk assessment. Any such comments, data, studies, or other

1 written information submitted to the office shall be made  
2 available to any member of the public who requests it.

3 (ii) The department and the Office of Environmental Health  
4 Hazard Assessment shall make available any documentation used  
5 to adopt the primary drinking water standard or maximum  
6 contaminant level to any member of the public who requests it.

7 (D) Any interested person may, within 15 calendar days of the  
8 date the public workshop on a risk assessment is completed  
9 pursuant to Section 57003, request the Office of Environmental  
10 Health Hazard Assessment to submit the risk assessment to  
11 external scientific peer review prior to its publication. If the  
12 office receives such a request, the office shall submit the risk  
13 assessment to external scientific peer review in a manner  
14 substantially equivalent to the external scientific peer review  
15 process set forth in Section 57004, if the person requesting the  
16 external scientific peer review enters into an enforceable  
17 agreement with the office within 15 calendar days of making the  
18 request that requires the person requesting the external scientific  
19 peer review to fully reimburse the office for all of the costs  
20 associated with conducting the external scientific peer review.

21 (E) It is the intent of the Legislature that, if the Office of  
22 Environmental Health Hazard Assessment receives a request to  
23 submit a risk assessment prepared for a contaminant to which  
24 paragraph (2) of subdivision (e) applies to external scientific  
25 review, the peer review shall be conducted in a manner that does  
26 not affect the schedule for publishing the public health goal for  
27 that contaminant as set forth in paragraph (2) of subdivision (e).

28 (d) Notwithstanding any other provision of this section, any  
29 maximum contaminant level in effect on August 22, 1995, may  
30 be amended by the department to make the level more stringent  
31 pursuant to this section. However, the department may only  
32 amend a maximum contaminant level to make it less stringent if  
33 the department shows clear and convincing evidence that the  
34 maximum contaminant level should be made less stringent and  
35 the amendment is made consistent with this section.

36 (e) (1) All public health goals published by the Office of  
37 Environmental Health Hazard Assessment shall be established in  
38 accordance with the requirements of subdivision (c) and shall be  
39 reviewed at least once every five years ~~from the date of the initial~~  
40 ~~publication of the draft public health goal~~, and revised, pursuant

1 to subdivision (c), as necessary based upon the availability of  
2 new scientific data.

3 (2) On or before January 1, 1998, the Office of Environmental  
4 Health Hazard Assessment shall publish a public health goal for  
5 at least 25 drinking water contaminants for which a primary  
6 drinking water standard has been adopted by the department. The  
7 office shall publish a public health goal for 25 additional  
8 drinking water contaminants by January 1, 1999, and for all  
9 remaining drinking water contaminants for which a primary  
10 drinking water standard has been adopted by the department by  
11 no later than December 31, 2001. A public health goal shall be  
12 published by the Office of Environmental Health Hazard  
13 Assessment at the same time the department proposes the  
14 adoption of a primary drinking water standard for any newly  
15 regulated contaminant.

16 (f) The department or Office of Environmental Health Hazard  
17 Assessment may review, and adopt by reference, any information  
18 prepared by, or on behalf of, the United States Environmental  
19 Protection Agency for the purpose of adopting a national primary  
20 drinking water standard or maximum contaminant level goal  
21 when it establishes a California maximum contaminant level or  
22 publishes a public health goal.

23 (g) At least once every five years after adoption of a primary  
24 drinking water standard, the department shall review the primary  
25 drinking water standard and shall, consistent with the criteria set  
26 forth in subdivisions (a) and (b), amend any standard if any of the  
27 following occur:

28 (1) Changes in technology or treatment techniques that permit  
29 a materially greater protection of public health or attainment of  
30 the public health goal.

31 (2) New scientific evidence that indicates that the substance  
32 may present a materially different risk to public health than was  
33 previously determined.

34 (h) The department or the Office of Environmental Health  
35 Hazard Assessment ~~shall~~ *may* review and consider the primary  
36 drinking water standards and maximum contaminant levels  
37 imposed by other states, provided those standards and levels are  
38 not less stringent than existing state law.

39 (i) Not later than March 1 of every year, the department shall  
40 provide public notice of each primary drinking water standard it



1 proposes to review in that year pursuant to this section.  
2 Thereafter, the department shall solicit and consider public  
3 comment and hold one or more public hearings regarding its  
4 proposal to either amend or maintain an existing standard. With  
5 adequate public notice, the department may review additional  
6 contaminants not covered by the March 1 notice.

7 (j) This section shall operate prospectively to govern the  
8 adoption of new or revised primary drinking water standards and  
9 does not require the repeal or readoption of primary drinking  
10 water standards in effect immediately preceding January 1, 1997.

11 (k) The department may, by regulation, require the use of a  
12 specified treatment technique in lieu of establishing a maximum  
13 contaminant level for a contaminant if the department determines  
14 that it is not economically or technologically feasible to ascertain  
15 the level of the contaminant.

16 SEC. 2. Section 116365.3 is added to the Health and Safety  
17 Code, to read:

18 116365.3. If the department does not issue a primary drinking  
19 water standard by a deadline set by state law, the department  
20 shall issue monthly reports to the Legislature that explain the  
21 reasons for the delay and provide a summary of work activities.